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EXECUTIVE SECRETARIAT
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SUSPENSE

Remarks

VJ Executive Secretary

7/18/84
Date

3637 (10-81)

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Executive Registry
84 - 1740

19 April 1984

MEMORANDUM FOR: Deputy Director of Central Intelligence
FROM: Director of Central Intelligence
SUBJECT: Leaks

1. Bill Baker, Johnny Foster and Leo Cherne are going to give us their thoughts on the leak problem based on the papers produced by Eloise. I am committed to get back to Biden and Murtha with some ideas on how the leak problem might be addressed.

2. I believe that Eloise's papers have been sent to the members of the SIG-I, so they will have reviewed them by the meeting tomorrow. If you can kind of open up a dialogue and get their thinking, I will pursue it further at the meeting on the hostile presence. If I can get your ideas after your talk with the SIG-I, I will move forward with the Congress and NSC.


William J. Casey

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DCI/ICS 84-3007
6 April 1984

MEMORANDUM FOR: Director of Central Intelligence

FROM: Eloise R. Page
Deputy Director, Intelligence Community Staff

SUBJECT: Initiatives to Combat Unauthorized Disclosures
of Classified Intelligence Information

1. On 30 March 1984 I convened a meeting in response to your charge to develop administrative, security and legal initiatives which could be taken to help deal with the problem of unauthorized disclosures. At this meeting, which was attended by the Executive Director, the General Counsel, the Director of Security, the Deputy Director of Legislative Liaison, the Chairman of the Security Committee and senior General Counsel representatives, including the Chairman of SECOM's Unauthorized Disclosures Investigations Subcommittee, the papers at Tab A were presented. After some discussion, it was decided that the following proposals should be submitted for your consideration.

I. INVESTIGATION

Nothing is more necessary at this point than to break the cycle of futility by finding an appropriate leak case, having it thoroughly investigated and having the leaker identified and appropriately disciplined.

A. Presidential Statement

-- Congressional and media focus on certain aspects of NSDD-84 diverted attention away from the problem of intelligence leaks and, if anything, the problem has gotten worse. More recently there has been some Congressional recognition of the seriousness of such leaks and we again need to signal Executive Branch concern.

DOWNGRADE TO UNCLASSIFIED
WHEN SEPARATED FROM TAB A

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*We recommend a forceful Presidential statement to his Cabinet and senior White House officials, decrying the harmful effects of leaks. Expressions of Congressional support from the intelligence oversight committees would help immeasurably.

B. Use of a Special Prosecutor

-- Current investigative timidity may derive from the recognition that there are political costs in pursuing an aggressive investigation of media leaks.

*We recommend Attorney General appointment of a special prosecutor (independent counsel) to pursue sensitive leak investigations. The special prosecutor should have all necessary powers, including the ability to bring witnesses before a grand jury.

-- Use of a special prosecutor in appropriate cases will help assure the public, and particularly the media, that the investigation will be impartial and objective and neither politically motivated nor politically constrained.

C. Creation of a Separate FBI Leak Investigation Unit

-- Although we report a significant number of leaks to Justice each year, very few are investigated because Justice is not sanguine about solving such cases and prefers to use FBI resources on other types of cases.

*We recommend creation of a special unit within the FBI to do nothing but investigate intelligence leaks. The Intelligence Community should support a line-item appropriation to finance this unit.

-- Bureau assistance is necessary because certain key government components have no investigative staffs and in other departments and

agencies responsibility and authority are solely internal, with one agency unable to investigate what happened to its information when disseminated to a second agency.

-- Intelligence Community security organizations and the DCI Security Committee must provide appropriate assistance and work closely with this FBI unit.

II. REGULATION OF GOVERNMENTAL CONTACT WITH THE MEDIA

-- Contact between government officials and the press very often is salutary, contributing to public knowledge and informing public debate. Government officials, however, have no license to jeopardize intelligence sources and methods or mishandle classified information. Nevertheless, newsmen regularly brag that they have daily access to some of our most sensitive intelligence publications.

*We recommend:

a) Centralizing within each agency the regulation of all press contacts so a single official is aware of all authorized contacts;

b) Elimination of press building passes giving unsupervised or unrestricted access to government buildings;

c) Requiring employees to record all press contacts relating to their official positions and duties; and

d) Establishment of guidelines for backgrounders and indoctrination of employees on press tactics and proper responses.

III. SECURITY EDUCATION

The public generally regards intelligence leaks as interesting, even titilating and perhaps useful in exposing governmental excess but basically harmless. Leakers are seen as vaguely heroic figures akin to whistleblowers, and leaks are viewed as a kind of game in which the government tries to

hide information while the media tries to find the secrets. Until the public understands that compromises of intelligence sources and methods erode our ability to obtain vital intelligence and hurt the national security more than they contribute to public debate, public support for needed security measures will be lukewarm at best.

A. Presidential Commission

*We recommend creation of a Presidential Commission to review intelligence leaks, to examine steps which can be taken to protect intelligence sources and methods from unauthorized disclosure, to review existing investigative and legal constraints and to make recommendations to improve the situation.

-- Intelligence leaks have been a problem in both Democratic and Republican administrations. A nonpartisan blue ribbon panel could help to generate greater public understanding of the problem and support for appropriate remedial steps.

B. Security Briefings

*We recommend a redoubling of efforts to reach policy level officials in the State and Defense Departments, the National Security Council, and on the staff of the intelligence oversight committees. These security briefings should not be in a lecture format in which the official being briefed listens passively to a recitation of rules. Instead, the briefing must focus on the specific audience, citing the actual damage caused by leaks and explaining how, with a modicum of care, intelligence sources and methods could have been protected with minimum impact on the underlying news story or policy issue. There must be practical guidelines for senior officials on how intelligence material must be safeguarded in dealing with the press.

C. Outreach Program

*We recommend an effort to increase public awareness of the fragility of intelligence sources and methods and the national security implications of intelligence leaks. Senior intelligence officials and public affairs officers should take the time to develop this issue in speeches, articles and other programs which will reach important segments of the public.

IV. LEGISLATION

Arguably, unauthorized disclosures of classified information are in violation of the espionage laws but Justice has never successfully prosecuted a leaker under these statutes. In part, this may be because it is necessary to prove that the individual transmitting the national defense information did so with reason to believe it would be used to the injury of the United States or to the advantage of a foreign nation and in part, because of a reluctance to treat leakers as spies.

A. Criminalizing Leaks

*We recommend new legislation (Tab B) criminalizing the willful unauthorized disclosure of classified information by government employees or other persons with authorized access to classified information.

-- Such legislation would be free of the intent requirements in the current espionage laws and would make willful unauthorized disclosure of classified information illegal per se.

B. Injunctive Relief

-- At the appropriate time after passage of legislation criminalizing the unauthorized disclosure of classified information, we might consider seeking legislation (Tab C) providing for injunctive relief in leak cases similar to that available under the Atomic Energy Act.

2. To the extent appropriate, implementation of these recommendations should be discussed with our oversight committees. In this manner, we can capitalize on the growing Congressional concern about damage to intelligence from leaks and can avoid triggering a partisan political response to actions which seek to deal with a very serious and very urgent problem facing the Community.

Eloise R. Page

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Attachments: As stated.

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SECOM & D/ICS

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OFFICIAL USE ONLY
DIRECTOR OF CENTRAL INTELLIGENCE
Security Committee

SECOM D-069

29 March 1984

MEMORANDUM FOR: Director, Intelligence Community Staff

FROM:

Chairman

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SUBJECT: Intelligence Leaks

REFERENCE:

DCI MEMO
Subject: Intelligence Leaks and Counterterrorism
Capabilities

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1. The referent memorandum and the recent SSCI hearings have raised new hopes that something can be done at last about those who breach their oaths and reveal classified intelligence to the news media. The following observations on the leak situation may be useful to you in carrying out the DCI's charge.

2. While Senator Biden's helpful attitude is gratifying, there is a need to stimulate public opinion against leaks of classified information. There is a great groundswell of apathy about leaks, both within the government and among the general public. It is essential that new leak legislation, if it can be passed, not be regarded with the same enthusiasm as the Volstead Act.

3. There has been little opportunity to take the anti-leak message to rank-and-file government employees. Even worse, the public receives all its information about leaks and anti-leak efforts from the news media. While the DCI videotape has been shown to high-level audiences in some, not all, Intelligence Community agencies, it has not been generally presented to middle and lower graded personnel, even in CIA.

4. We are not doing enough to create a climate of acceptance for anti-leak efforts. Almost without exception, audiences viewing the DCI leak videotape have expressed the belief that no progress will be made until senior officials of the government stop leaking classified information for their own purposes. The opinion persists that the public chastisement of one or more identified high level leakers is essential to marshalling any anti-leak support. The message is clear--mere words are not enough. The government must demonstrate that leaks are a sufficiently severe problem to warrant decisive, well-publicized action against senior, well-connected officials.

5. There is a reasonable reluctance to use the Espionage Act to prosecute leakers. Legislation is needed to deal specifically with the disclosure of classified information by cleared individuals to unauthorized persons. No matter how one views it, this is a different crime from espionage. Nevertheless, it is no less a breach of trust by a federal official than illegal use of a limousine, disclosure of crop futures, or misappropriation of federal funds. It deserves its own law. We should not drive tacks with a sledge hammer. We have offered, then withdrawn, legislative proposals on this topic for the past two years.

6. As the leak situation grows worse, our posture to combat leaks also seems to be going downhill. The Brooks Bill, if passed, would hamper the anti-leak effort. More important, it would send a message that efforts to combat leaks are somehow immoral, unconstitutional, or worse. It is essential that Congressional liaison officers throughout the Community do everything possible to educate members of both Houses on the pernicious nature of leaks and the extremely disadvantaged posture of the government in combatting them. A solid defeat for the Brooks Bill is an indispensable step in our effort to turn public opinion around.

7. CIA and the rest of the Community need to determine as precisely as possible what the leak story is and how much of that story can be told publicly; how much more can be told to Congressional leaders, and how much can be told to top Administration officials. Unless we can present a credible story that the US intelligence effort is being significantly damaged by leaks, no amount of hand wringing is likely to have any effect, whatsoever.

8. We need to determine ways to get the general story before the public and the specifics to those who can help lead the way back from apathy. Having a good story doesn't help unless we can get people to listen. The DCI anti-leak videotape has been an excellent consciousness-raising exercise, but there has been a constant uphill struggle to get audiences to view it. We need to produce a new, hard-hitting, factual message on leaks and obtain authority to require cleared personnel throughout the government to attend.

9. The fact that after four decades, the DCI still finds the slogan "loose lips sink ships" useful indicates that posters are a powerful medium. We should mount a poster campaign against leaks throughout the government. Posters provide the message to masses of people without requiring any action on their part.

10. As has been reiterated, the current procedures for investigation of unauthorized disclosures are geared to failure. The fragmented, agency-by-agency approach to investigating leaks of information that is disseminated government-wide doesn't provide a uniform effort. In order to ensure that competent investigative resources are concentrated on areas most likely to yield results, an overall, coordinated effort by a single agency is required. The FBI is the only agency capable of doing the job. It is also essential to the continued protection of intelligence sources and methods that the investigation be closely coordinated with senior Intelligence Community

officials who can determine the risk of additional revelations of classified information at every step of the investigation and recommend appropriate action to avoid compounding our problems.

11. The fragmented approach to investigation does not permit any analysis of leaks for possible patterns. Centralized investigation and coordination would afford the opportunity to analyze the content, apparent intent, possible sourcing, etc., in order to focus investigative efforts where they are likely to yield results. Sophisticated investigative and analytical techniques, as currently being applied to the fight against narcotics, need to be used against leaks. The current simplistic approach does not work.

12. To avoid having an anti-leak effort evaporate in a cloud of frustration, there should be personnel and other resources dedicated to the investigation and prosecution of leaks, preferably with a Congressional mandate. The current unsophisticated, relatively low level, effort appears to result from reluctance to devote resources to a no-win situation. If the resources and appropriate guidelines can be made available, we can win, at least some of the time. A concerted effort to mount a strong pilot operation offers the best chance of success.

13. Senator Biden's concern about lack of utilization of "graymail" procedures illustrates two points that must not be ignored. The first is that the passage of legislation, per se, is not enough to cure a bad situation. The second is that nothing can be done about the leak problem unless some of the offenders are identified and penalized.

14. I have telephoned all the members of the Security Committee and requested their thoughts on new approaches to the leak problems. Their responses will be provided to you when received.

15. Finally, I propose that we consider recommending appointment of a presidential commission on unauthorized disclosure of classified information. A bi-partisan group of distinguished present and former members of all three branches of government could be given all the facts and asked to report and recommend remedial action. Coming from such a broad-based group, the recommendations should command widespread support and would provide a means of informing the American people of the gravity of the threat, if not the details of it. Formation of a commission would provide a way to meet several of the needs enumerated above. The primary drawback is that this is an election year. Although timing is important, the action could be taken after the election, because the problem will still be with us.

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Director
Intelligence Community Staff
Washington, D.C. 20505

24 May 1983

31 MAY 1983

NOTE FOR: DCI
VIA: DDCI

SUBJECT: Recommendations on the Leak Problem

The attached memorandum presents our ideas and some recommendations on the leak problem. It is the product of two things: (1) three separate meetings with senior staff personnel, and (2) the carefully considered thoughts over a long period of time of the Security Committee. I think it is pretty comprehensive, and some of the ideas have a lot of merit. Unfortunately, the memorandum is also rather long and not well suited for a quick review. My purpose in sending it along as is--and encouraging you to take the time to go through it--is to give you a timely input as you consider remedial action.

We are going to continue to pursue the subject and will advise you of any additional thoughts. And, of course, we are ready to respond to any requirements that you may have for us to develop policies and procedures for the Community.

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Attachment

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Director
Intelligence Community Staff
Washington, D.C. 20505

ICS-0802-83

24 May 1983

MEMORANDUM FOR: Director of Central Intelligence

VIA: Deputy Director of Central Intelligence

FROM:

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Director, Intelligence Community Staff

SUBJECT: Unauthorized Disclosures of Classified Information

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1. Senior members of the Intelligence Community Staff have met to consider responses to your call for proposals to counter the unauthorized disclosures of classified intelligence which are increasing in number and severity. The recommendations of the group are in five basic categories -- education, legislation, investigations, media interface and information control. This memorandum discusses proposals in each of these categories.
2. Education - There appears to be a lack of appreciation of the consequences of the unauthorized revelation of classified intelligence information, both to the national security and to the individual making the disclosure. Each recipient of Sensitive Compartmented Information (SCI) is indoctrinated on the potential damage to the national security of such revelations, as well as the penalties prescribed in Title 18, Sections 793 through 798. Nevertheless, incidents continue which indicate that these elements of risk are not being taken seriously. Recipients of classified intelligence must be convinced that its unlawful revelation is reprehensible, and that individuals who take it upon themselves to decide when the system may be ignored place the national security and themselves in jeopardy.
3. In wartime, the population recognizes the need to keep military secrets. The concept that "loose lips sink ships" is well accepted. We need a campaign, beginning with the President, to convince all concerned that classified information must be protected if we are to avoid national disaster. A vigorous Presidential charge to the Cabinet and the Executive Office of the President, relayed through channels to all levels, is an essential element of this campaign.
4. Awareness of the importance of security to intelligence must be extended to the Congress. The whole-hearted cooperation of both legislators and staff members is indispensable. Not only is Legislative Branch support needed to safeguard the material provided to the Congress, but also to put teeth into the anti-leak effort.

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5. To make this effort credible, documents must be classified properly and concern about disclosures should be limited to those affecting national security.

6. A one-time effort to sensitize the government and the public to the disastrous consequences of illegal disclosures, even one kicked off by the President, has a limited half-life. There must be a planned follow-up. In addition to the obvious reindoctrination efforts, consideration should be given to an ongoing program of damage-oriented "lessons learned" presentations. These are envisioned as timely, specific, succinct and technically competent videotape shows detailing the nature of the unauthorized disclosure and the specific losses suffered as a result. They would be shown to audiences cleared for the compromised information as a means of reinforcing the need for strong security.

7. Because of the general derision with which the media regard government efforts to stop leaks and because the generic term "leak" is associated with disclosures that are politically embarrassing, it may be advisable to avoid that term and speak only of "unauthorized disclosures of classified information."

8. Legislation - The existing espionage laws were drafted to protect U.S. secrets from foreign agents. They did not contemplate the hemorrhaging of classified data that has followed the media explosion. The divulgence of classified information to the Russians by way of [redacted] for example, is a relatively new phenomenon. Even though the intentions of the leaker may be to nobly inform the public of facts he thinks should be known, the results are the same as directly transmitting the information to the KGB.

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9. Attached is a copy of the proposed bill to prohibit certain unauthorized disclosures of classified information. Formulated on the basis of the Willard Report, it is an excellent vehicle for closing the loophole that allows individuals to ignore classifications and make their own decisions about what must or must not be kept secret. Passage of such a bill would make it clear that both the legislative and executive branches are serious about preserving our ability to keep our national security secrets. It would then remain for the judiciary to show the same resolve.

10. The chances of passing the unauthorized disclosures bill are directly related to the Congress's perception of how responsibly the Executive Branch uses its classification powers. As noted above, the effort to educate government employees (and the public, to the extent possible) on the need for effective secrecy must also include the Congress and legislative staff personnel. The means of reaching this objective are the same for both branches of government -- graphic demonstrations that unauthorized disclosures are costly in terms of money, national defense, intelligence capabilities, and sometimes, human lives.

11. Legislation also is needed to make the unauthorized possession of classified material a crime. It is illogical for the U.S. Government to be

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unable to bring charges against, or at least sue to recover classified material [redacted] who makes a mockery of classification, or from [redacted] which has printed classified satellite imagery. If the U.S. would take action against an ordinary citizen, it should act with the same vigor against journalists who damage the national security. The Attorney General and the General Counsels of the Intelligence Community should begin a crash program to draft a legislative proposal and to review the possibilities of action even without a new law.

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12. Whether or not the effort to pass new legislation is successful, it is vital that Congress be included in any awareness-raising program. A secondary objective would be to raise the security standards of the congressional staffs. Many staffers have access to more sensitive information than some CIA or NSA personnel, who are polygraphed as well as backgrounded, and are subject to periodic reprocessing. Congressional staffers are not steeped in the discipline of security as are the intelligence professionals, and would almost certainly benefit from a greater appreciation for the need for secrecy.

13. Finally, the problem of reinforcing the responsibilities of formerly cleared recipients of classified information to continue to maintain secrecy requires attention. A periodic reminder by mail might be considered, but except for CIA and NSA, it could be difficult to identify those who should receive them. In the future, the archival file of the Community-wide, Computer-assisted Compartmented Control (4C) System, which will contain the identities of individuals formerly approved for access to SCI, should assist with this problem. Meanwhile, the message needs to be spread that our "old boys" can do a lot of harm by talking too much. Cleared persons still employed in government must be reminded frequently and forcefully that those who have retired, or taken jobs in the industrial sector, may not legally receive classified information unless they are specifically cleared for it.

14. Investigations - The investigation of unauthorized disclosures has rarely proven successful over the years. The broad dissemination required of intelligence reporting, the lack of an effectual investigative program throughout the government, an apparent tolerant attitude toward those who make illicit disclosures, and the absence of a legislative basis for action have made for a highly frustrating situation. NSDD-84 offers hope for greater success in the future, but there is much to be done.

15. Although leak investigations are searches for needles in haystacks, occasionally good investigative work will produce results. Unfortunately, unauthorized disclosures to the media are consensual acts between two parties, neither of whom is likely to admit participation, and one of whom enjoys a special degree of privilege under the First Amendment. Legislation will help, but there can't be a trial until a defendant is identified. The abysmal track record of leak investigations to date dictates that the Federal Bureau of Investigation is the only agency with any chance of success. Fragmented, single-agency efforts simply do not work. Nor does the proposal to form interagency units to investigate unauthorized disclosures offer any reasonable hope for improvement.

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16. Even the FBI will require some help -- the full cooperation of other agencies, the legislation discussed earlier, and guidelines that permit the use of as full a range of investigative tools as possible. The Attorney General and the Director of the FBI should be instructed by the President to provide the most permissive guidelines possible, consistent with the protection of civil liberties, for FBI investigations of unauthorized disclosures of classified information. In addition, appropriate manpower allocations to the FBI should be made to ensure a vigorous effort to solve unauthorized disclosures. Without this, the Bureau cannot be expected to neglect other important investigations to undertake tasks that offer a low probability of success and almost certain criticism in the press.

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20. Press Interface - NSDD-84 mandates policies to govern contacts between media representatives and agency personnel, leaving implementation to the individual agencies. The effort to eradicate unauthorized disclosures would be assisted greatly by the adoption of uniform rules for all agencies.

21. The discussion of government information, especially sensitive intelligence, by a government employee is not a private, personal matter. There seems no reason why the government cannot require the reporting of all contacts with the news media, during or outside of duty hours, in which

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government business is discussed. Failure to follow such a rule could be made subject to administrative sanctions of varying severity. Data on such contacts could be computerized, by names of government employees, names of media representatives, subjects of discussions and dates of contacts, providing a means of determining a great deal of information that could take inordinate amounts of investigative effort. It wouldn't tell who made unauthorized disclosures, but it would provide a means of determining who might have had the means and the opportunity, and possibly even the motive to have done so.

22. It would be ideal, from the standpoint of security, to abolish back-grounders. Recognizing that this isn't going to happen, there should be firm control of background briefings to the press. There must be clear-cut guidelines on who may authorize and present backgrounders. Every such briefing should be attended by a security or public affairs officer who knows what is sensitive about the topic being discussed and is capable of offering guidance to the briefer. A record should be kept of briefings by names of participants and authorizing officials, dates and topics, preferably in a computerized mode. Presenters of background briefings should be required to prepare summaries of what was presented. These should be cross-referenced to the automated index of background briefings. The documentation of this information and its retrievability will not only serve as an invaluable investigative resource, but its existence will promote prudence in the presentation of backgrounders and in other dealings with the press.

23. Even if all these proposals were adopted, there would be individuals who would continue to divulge classified information to the press. But they would find themselves operating at considerably greater risk. Simple failure to comply with the reporting requirements would be cause for administrative sanctions, and it would become easier to detect such failures by having a reliable record of compliance. It is likely that associations between government personnel and media representatives are known to at least some associates of both, and the possibility of being reported by a concerned colleague would be enhanced by the revised rules. An effective education program about leaks should have the salutary effect of highlighting to their associates those who may deal with the media without observing the reporting requirements. If those who comply are sufficiently convinced of the need for regulation of press contacts, they may be inclined to "blow the whistle." It would then be necessary for the government to demonstrate the seriousness of its intent by taking administrative action against the nonreporting individuals, regardless of their positions.

24. The matter of "authorized" or "official" leaks needs close attention. If the appropriate official determines it is in the national interest to release for publication information that was classified until that point, there should be a means of recording that fact. Such a record would appropriately be kept somewhere in the Executive Office of the President. This record could provide a means of avoiding the expenditure of resources to investigate such disclosures as "leaks."

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25. Finally, the revolving door practice of appointing national media personalities as top level government press officers should be carefully reexamined. Such appointments must face the incumbents with conflicts of interest and severely ambivalent feelings, both during and after their federal service. It may be unrealistic to expect them to deny their colleagues information which they feel is unjustifiably classified and to expect them to forget, and never use, information they received officially.

26. Information Control - Some people believe there are enough information control policies, procedures and regulations on the books to bring the government to a complete halt if they were strictly applied. While this view may have some merit, it should not serve as an excuse for not trying to secure our sensitive information. The concept that security is everybody's business must not be given lip service and then cast aside.

27. Except for the need for developing a strong, national information control program for the emerging electronic information systems, it is unlikely that more document control regulations are needed or practicable. What is needed is for everyone to be educated in the existing policies and procedures and to make a renewed effort to comply. While everyone claims to know the regulations, it is likely that few could pass a comprehensive test on information security and control.

28. Steps to improve information control would include detailed comparison of practices with policies; the reeducation of all personnel in information security, and a motivational program to enhance awareness of the consequences of improper handling of sensitive intelligence. Better information control is needed, but it must come from motivated people. More regulations are not the answer.

29. Summary - Unauthorized public disclosures of classified information in the news media are damaging to the national security. Our defense against them must come from within, from those who are cleared for access to, and who have signed agreements to protect, classified information. It is clear that some of these people, for reasons of their own, have not kept their word. It also appears that neither the overall level of concern about this situation nor the government's capability for remedial action is up to the job.

30. To encourage wholehearted support of our efforts to protect classified information, we must convince those who have agreed to keep the secrets that they have a moral and legal obligation to keep that covenant. The rules on SCI are simple and clear. It is inconceivable that anyone who gives such information to uncleared individuals is unaware of what he is doing. Therefore, such persons must be unconvinced of the seriousness of the security program.

31. A massive reeducation program for all legitimate recipients of classified information is the first step in attempting to achieve the necessary change in attitude.

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32. A policy and resource commitment to the solution of at least the most flagrant cases of unauthorized disclosure is also needed. This means the devotion of sufficient FBI assets to investigations and an all-out effort to obtain passage of unauthorized disclosure laws.

33. A severe tightening of policies concerning relationships of cleared individuals with media representatives is essential. To be meaningful, this must include strict guidelines, reporting procedures, information retrieval capabilities, and impartial administrative penalties for noncompliance.

34. Renewed awareness of information control policies and procedures and their importance to the national security is needed. If classified documents can be turned over to the media or other unauthorized persons without being noticed, the system isn't working. It must be made clear that "the system" really is the people who operate it.

35. If you wish elaboration or action on any of the above items, appropriate elements of the Intelligence Community Staff are prepared to assist in any way possible.

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Attachment:

Draft unauthorized disclosures bill

All paragraphs of the text
are classified SECRET

TAB "B"

New version of proposed 18 U.S.C. 791
is attached. Note that the cover language
specifies that the proposal would have
to be reCOORDINATED within the Administration
before being sent to the Congress

In the course of Administration development of the Fiscal Year 1984 Intelligence Authorization Bill, the Intelligence Community obtained from the Office of Management and Budget clearance of a proposal to establish criminal penalties for certain unauthorized disclosures of classified information. The proposal was based in part on the report of the Interagency Group on Unauthorized Disclosure of Classified Information chaired by Deputy Assistant Attorney General (Civil Division) Richard K. Willard. It was coordinated with Deputy Assistant Attorney General (Criminal Division) Mark Richard, as well as with the Office of the Secretary of Defense/Legislative Affairs.

For a number of reasons, including the issuance of NSDD-84 just before the Authorization Bill was forwarded to the Congress, and in deference to the intelligence committees' preference for handling the Intelligence Authorization in as unobtrusive a manner as possible, the unauthorized disclosures proposal ultimately was not transmitted as part of the Authorization Bill. The climate for transmittal of the proposal as part of the Fiscal Year 1985 Intelligence Authorization Bill also was considered unfavorable, due to continuing controversy over NSDD-84.

The proposal (attached) has been modified to include former officers or employees for a period of five years following termination of their government service. It has been reconfigured as a separate bill, and prepared for transmission

at an opportune moment as an initiative from the DCI. The proposal would have to be re-coordinated within the Administration before being sent to the Congress.

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Honorable Thomas P. O'Neill, Jr.
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

This letter transmits for the consideration of the Congress legislation to provide criminal penalties for the unauthorized disclosure of classified information by individuals who have had authorized access to such information. The legislation is designed to deter unauthorized disclosures of classified information, which damage the national security interests of the United States and raise grave questions about the ability and willingness of the United States Government to protect its secrets.

With the exception of disclosures of information in the narrow categories of atomic energy Restricted Data, communications intelligence or cryptography, and identities of covert agents, disclosures of classified information by government employees and others with authorized access to classified information, such as government contractors, do not constitute per se criminal offenses. In many circumstances such conduct would violate the Espionage Act or statutes protecting government property from theft, but a variety of legal and practical problems usually prevent such prosecutions. The proposed legislation contains straightforward, easily understood, and readily enforceable provisions prohibiting willful unauthorized disclosure of classified information by government employees and others ~~XXXX~~ authorized access to classified information. who have had

The proposed legislation has been narrowly tailored to establish criminal sanctions for unauthorized disclosures of classified information only when committed by individuals who, by virtue of their acceptance of employment in positions of trust involving the national security, have freely undertaken the legal and moral obligation to protect classified information. The legislation has also been crafted carefully to preserve access to classified information by the executive, legislative, and judicial branches of government.

Timely consideration of this legislation of great importance to the continued security of the nation would be greatly appreciated. The Office of Management and Budget has advised that enactment of the proposed legislation would be in accord with the President's program.

Sincerely,

William J. Casey
Director of Central Intelligence

.AB "C"

**Two versions of the
Injunction Provision**

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DCI Tasking
23 Mar 84

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23 March 1984

MEMORANDUM FOR: Director, Intelligence Community Staff
Executive Director
Deputy Director for Administration
General Counsel
Director, Office of Legislative Liaison

FROM: Director of Central Intelligence

SUBJECT: Intelligence Leaks and Counterterrorism Capabilities

1. We need a quick and intensive review of what could be done to attack the leak problem again in every possible way - legislatively, administratively, and every other conceivable way. The current staccato of leaks, the increasingly damaging impact and expression of concern and offers of support in the Congress mandate this. The latest and most shocking is the broadcasting


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2. Particularly significant was Joe Biden's reaction - the tongue lashing he gave Justice for their passive attitude and general ineffectiveness, and his demand that, if the gray mail legislation which he sponsored was not enough to enable them to go after leaks, they tell them what else needs to be done. This all may make for an opportunity to launch a more effective campaign against leaking which can cost us the great bulk of intelligence assets if it keeps up.

3. I attach a memorandum prepared on how leaks damage our counterterrorism capabilities. The DDCI strongly disagrees with its passiveness and acceptance of our continued exposure to leaks even to the extent of seeing leaks as sometimes helpful.

4. Will all five of you get on this, working your respective areas of authority and influence, to gather ideas and do the necessary research to come up with a program of action.

5. I will meet with you whenever you are ready.


William J. Casey

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